IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 16-CR-30125-MJR
	)	
OLIVER HAMILTON,	)	
	)	
Defendant.	)	

JOINT MOTION TO AMEND PLEA AGREEMENT

The United States of America, by Donald S. Boyce, United States Attorney for the Southern District of Illinois, and Norman R. Smith, Assistant United States Attorney, together with the defendant Oliver Hamilton and his counsel, Clyde Kuehn, herein submit a Joint Motion to Amend Plea Agreement.

1. On December 1, 2016, the Defendant waived indictment and, pursuant to a plea agreement, entered a plea of guilty to a one-count Information charging wire fraud. [Doc. 1, 2, 6, 7, 8, and 9].

2. The plea agreement entered into between the parties is not binding on the Court, pursuant to Rule 11(c)(1)(B). In the plea agreement, the United States and the Defendant agreed that the appropriate sentence to recommend to the Court was a mid-guideline sentence of a year and a day incarceration, followed by three years of supervised release, with restitution, but no fine. [Doc. 7]. In the plea agreement there is a waiver of right to appeal where the Defendant reserved the right to appeal the substantive reasonableness of a term of imprisonment in excess of the Sentencing Guidelines as determined by the Court. [Doc. 7]. The presentence investigation report indicates the appropriate advisory Sentencing Guideline range is what the parties anticipated in the plea agreement. [Doc. 13].

3. On March 23, 2017, the Court filed its own sentencing memorandum, which addressed why the term of imprisonment recommended by the sentencing guidelines and the parties may not be sufficient. Both parties have carefully reviewed the Court's sentencing memorandum and the Court's reasoning set forth therein. On reflection of the Court's reasoning, the parties have jointly agreed to

amend the terms of the plea agreement between the parties that the appropriate sentence to recommend to the Court is an above-guideline sentence of twenty-four months incarceration, followed by three years of supervised release, with restitution, but no fine. The parties have also agreed to amend the terms of the plea agreement to enlarge the appeal waiver so that the Defendant's reservation of rights to appeal covers the substantive reasonableness of a term of imprisonment in excess of twenty-four months.

4. At the plea colloquy, the Court accepted the Defendant's plea, but deferred its decision as to whether to accept the plea agreement until sentencing. A plea agreement can be amended only prior to the Court's acceptance of the plea agreement. See *U.S. v. Ritsema*, 89 F.3d 392 (1996). Accordingly, the parties jointly move to accept an amended plea agreement as attached herein as Exhibit 1.

WHEREFORE, the United States and the Defendant jointly submit this motion to amend the plea agreement as set forth herein.

Respectfully submitted,

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I hereby certify that on April 5, 2017, I caused to be electronically filed:

JOINT MOTION TO AMEND PLEA AGREEMENT

with the Clerk of Court using the CM/ECF system which will send notification of such filing(s) to the following:

Clyde Kuehn

A copy will be emailed to:
Robin Wheeler, U.S. Probation

Respectfully submitted,

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